

STATE OF MICHIGAN
COURT OF APPEALS

RAYMOND O'NEAL,

Plaintiff-Appellee,

v

ST. JOHN HOSPITAL & MEDICAL CENTER
and RALPH DILISIO, M.D.,

Defendants,

and

EFSTATHIOS TAPAZOGLU, M.D.,

Defendant-Appellant.

UNPUBLISHED

November 4, 2008

No. 277317

Wayne Circuit Court

LC No. 05-515351-NH

RAYMOND O'NEAL,

Plaintiff-Appellee,

v

ST. JOHN HOSPITAL & MEDICAL CENTER
and RALPH DILISIO, M.D.,

Defendants-Appellants,

and

EFSTATHIOS TAPAZOGLU, M.D.,

Defendant.

No. 277318

Wayne Circuit Court

LC No. 05-515351-NH

Before: Wilder, P.J., and Jansen and Owens, JJ.

JANSEN, J. (*concurring*).

I fully concur in the result reached by the majority in this case. Even if this was not a loss-of-opportunity case, I would still conclude that plaintiff failed to satisfy his burden of establishing a genuine issue of material fact concerning whether he was entitled to recovery. A medical-malpractice plaintiff must establish that his injuries were proximately caused by the defendants' professional negligence. *Woodard v Custer*, 473 Mich 1, 6; 702 NW2d 522 (2005). More specifically, the plaintiff must establish "that he or she suffered an injury that more probably than not was proximately caused by the negligence of the defendant or defendants." MCL 600.2912a(2). In light of plaintiff's preexisting medical condition, and taking into account the totality of the expert deposition testimony in this case, I simply cannot conclude that plaintiff satisfied his burden of establishing the existence of a genuine factual dispute concerning whether defendants' alleged professional negligence "more probably than not" proximately caused his stroke. I would therefore reverse and remand for judgment in favor of defendants irrespective of whether this was a loss-of-opportunity case.

/s/ Kathleen Jansen